

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLARENCE F. FAULKNER,

Plaintiff,

v.

SHANE MAITLAND *et al.*,

Defendants.

Case No. C08-5038RJB/JKA

ORDER DENYING PLAINTIFF'S
MULTIPLE MOTIONS TO AMEND OR
SUPPLEMENT THE COMPLAINT

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Plaintiff was given leave to proceed *in forma pauperis*. The court ordered service of the complaint in February of 2008 (Dkt. # 6). Defendants appeared and on May 12, 2008, entered an answer (Dkt. # 14). A scheduling order was entered on May 15, 2008 (Dkt. # 15). That order set a discovery cut off date of September 15, 2008 (Dkt # 15). The original complaint involved allegations that plaintiff's out going mail was improperly held in December of 2007 (Dkt # 5). There are three defendants named in the original complaint.

On June 16, 2008, plaintiff filed a motion to "amend or supplement the complaint" (Dkt. # 20). The proposed new complaint adds two new defendants and adds new claims regarding other mail rejections, including rejections of incoming mail. The original claims and defendants are not mentioned in the proposed amended complaint (Dkt # 20). Defendants objected to the plaintiff's attempt to file this new complaint, and note the proposed complaint could not act as an amended complaint if plaintiff intended to

ORDER

1 keep the original claims and defendants in the action, because the proposed complaint did not mention the
2 original defendants. Defendants correctly note that an amended complaint acts as a complete substitute for
3 the original (Dkt # 22).

4 Defendants also objected to the proposed complaint as a supplemental complaint because the
5 incidents raised are a completely different event (Dkt. # 22, page 3). Plaintiff is attempting to introduce a
6 new claim against new defendants. Some of the claims occurred prior to filing the original complaint, and
7 some occurred after filing the original

8 Defendant's position is correct. As an amended complaint the proposed complaint eliminates the
9 original claim. As a supplemental complaint the proposed complaint adds new claims, some of which
10 occurred before the original complaint was filed ,and some of which occurred after the complaint was filed.
11 With a discovery cut off date of September 15, 2008, the court is not inclined to allow any amendment
12 which adds new defendants. Plaintiff's motion is **DENIED**.

13 On July 10, 2008, without waiting for a ruling on his pending motion to amend or supplement the
14 complaint, plaintiff filed another attempt to amend the complaint (Dkt # 24). This new proposed complaint
15 does not set forth the grounds in the original, and raises new events which have allegedly occurred with
16 regard to plaintiff's mail. Plaintiff is attempting to bring a string of continuing events into this litigation.
17 With less then six weeks left in the discovery process the court is not inclined to allow for new claims or
18 defendants. The motion to supplement the complaint to add new events is **DENIED**. The Clerk is
19 directed to send plaintiff and counsel a copy of this order and removed Dkt. # 20 and 24 from the court's
20 calendar.
21

22 DATED this 21 day of July, 2008.
23

24
25 /S/ J. Kelley Arnold
26 J. Kelley Arnold
27 United States Magistrate Judge
28

ORDER